

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LILLIE HARRIS,

Plaintiff,

v.

MARK T. ESPER,

Defendant,

No. 4:18-cv-00690-JAR

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this civil action under Title VII of the Civil Rights Act of 1964. Based on the information contained in the application the motion will be granted.

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. The Court may dismiss an action under § 1915(e) if “it is apparent the statute of limitations has run.” *Myers v. Vogal*, 960 F.2d 750, 751 (8th Cir. 1992).

A plaintiff in a Title VII action has ninety days from receipt of the right-to-sue letter to file a civil action. 42 U.S.C. § 2000e-5(f). The ninety-day period represents a limitations period that bars suits that are not filed within that time. *Hales v. Casey’s Mktg. Co.*, 886 F.3d 730, 736 (8th Cir. 2018). “Generally, the ninety-day filing period begins to run on the day the right to sue letter is received at the most recent address that a plaintiff has provided the EEOC.” *Hill v. John Chezik Imps.*, 869 F.2d 1122, 1124 (8th Cir. 1989). The presumption is that the plaintiff will receive notice three days after the mailing date. *Hales*, 886 F.3d at 736.


Plaintiff alleges that her employer discriminated against her on the basis of race, age, and gender. (Docket No. 1 at 5). Plaintiff attached a Decision on Request for Reconsideration issued by the Equal Employment Opportunity Commission. (Docket No. 1-1 at 3). The EEOC decision advised plaintiff she had ninety calendar days to file a civil action. (Docket No. 1-1 at 4). The decision is dated January 25, 2018. *Id.* Based on the three-day presumption rule, plaintiff would have received the decision informing her of her right to sue on January 28, 2018. Accordingly, the ninety-day period in this case elapsed on April 28, 2018, which was a Saturday. When the last day of the period is a "Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday." Fed. R. Civ. P. 6(a)(1)(C). Pursuant to this rule, the last day of the ninety-day period would be April 30, 2018. Plaintiff filed her action on April 30, 2018. As a result, the complaint appears to be timely.

Accordingly

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis (Docket No. 2) is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall issue process on plaintiff's complaint pursuant to Fed. R. Civ. P. 4(i).

Dated this 14th day of May, 2018.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE